

DECLARATION OF ENVIRONMENTAL COVENANT

This ENVIRONMENTAL COVENANT is hereby declared and granted as of this ____ day of *{insert month, year}*, by *{insert corporate name, ALL IN CAPITALS}* a *{insert state}* corporation having a place of business at *{insert street address, municipality, county}* County, *{insert state}* (“Declarant” or “_____”), to the Maine Department of Environmental Protection (“DEP”) on property located in *{insert town/city}*, Maine, which is more fully described below.

WHEREAS, Declarant is the owner of a certain property approximately *{insert number of acres}* acres in size located in the *{insert Town/City of municipality, county name}* County, Maine, a legally sufficient description of which property is set forth in Exhibit A attached hereto (said property to be referred to as “Protected Parcel”);

WHEREAS, the DEP’s Bureau of Remediation and Waste Management has issued to Declarant a Voluntary Response Action Program (“VRAP”) *{insert No Further Action Assurance Letter or Certificate of Completion}*, which requires that Declarant prepare and record a Declaration of Environmental Covenant consistent with the VRAP *{insert No Further Action Assurance Letter or Certificate of Completion}* and the Maine Uniform Environmental Covenants Act (“UECA”), 38 M.R.S.A. § 3001 et seq.;

WHEREAS, the DEP has determined in accordance with 38 M.R.S.A. § 1301 et seq. and the UECA that the environmental covenants in this Declaration are necessary to prevent *{insert what the covenants prevent, i.e. extraction of groundwater, digging, and/or other prohibited acts}* and to protect the public health, safety, and the environment, which covenants shall run with the land; and

WHEREAS, Declarant intends to create and grant an Environmental Covenant pursuant to the UECA;

NOW, THEREFORE, the Declarant for and in consideration of the facts above recited and the covenants herein contained, and intending to create and be legally bound by a perpetual covenant running with the land, subject to the terms hereof, hereby declares, covenants and agrees as follows:

1. Declaration of Covenant. This instrument is an Environmental Covenant executed pursuant to the UECA.
2. *{Insert the covenants, 2., 3., 4. as necessary}*
3. Agency and Holder. DEP is the environmental agency with enforcement authority pursuant to the UECA, and is also the only Holder of the Environmental Covenant granted by Declarant in this Declaration.

4. Notice to Tenants and Others. The Declarant or future owners of the Property shall provide notice of this Environmental Covenant to any tenants or lessees, or to any person conducting any activities on the Property that could result in disturbance of soil or groundwater, or any activity that would be otherwise prohibited by this Covenant.
5. Perpetuity of Covenant. This Environmental Covenant and each and every covenant herein shall be a covenant running with the land in perpetuity, and shall bind the Protected Parcel, all persons or entities having any right, title, or interest in and to the Protected Parcel or any portion thereof, and their respective heirs, personal representatives, successors, and assigns, and all those acting by, through or under any of them forever. Any present or future owner of the Protected Parcel or any interest therein, by the acceptance of a deed of conveyance of all or any part of the Protected Parcel or any interest therein, whether or not the deed shall so express, shall be deemed to have accepted the Protected Parcel subject to the restrictions contained herein and shall be deemed bound by, obligated to comply with, and otherwise subject to the restrictions herein and this Covenant.
6. Representation of Ownership and Encumbrances. By its execution hereof, Declarant warrants that it is the sole owner of the Protected Parcel and that there are no mortgages, easements, or other encumbrances on the Protected Parcel that would materially adversely affect the effectiveness or enforceability of this Environmental Covenant. *{Note: Declarant typically must perform a title search and obtain subordination agreements if appropriate.}*
7. Access. The Declarant, its successors and assigns, and all future owners and land users shall provide, without cost, access to the Protected Parcel to the DEP, including its authorized employees, agents, representatives, and independent contractors, upon presentation of credentials, for purposes of monitoring and enforcing this Environmental Covenant.
8. Notice of Noncompliance. The Declarant and all future owners shall provide written notice to the DEP within ten working days of discovery of any noncompliance with the terms of this Environmental Covenant.
9. Enforcement. This Environmental Covenant shall be enforceable as authorized by the UECA. Any forbearance as to the enforcement of any of the terms hereof shall not be deemed a waiver of the right to seek and obtain enforcement at any time thereafter as to the same violation or as to any other violations.

10. Amendment or Termination by Consent. The terms and conditions herein may not be amended or terminated except by a written instrument duly executed by the Declarant, the current owner of the Protected Parcel at the time of the amendment or termination, and DEP, or its successor in legal function, which instrument is duly recorded in the *{insert county name}* County Registry of Deeds, pursuant to the UECA. *{Note that Declarant may add a sentence here waiving its right to consent, in the event that it no longer owns the property. See 38 M.R.S.A. § 3010(1)(C).}*
11. Notice Pursuant to Covenant. Any notice or other communication required pursuant to this Environmental Covenant shall be in writing and shall be sent by certified mail, return receipt requested and shall be sent to the following addresses, or such other addresses as the Declarant and the DEP may designate from time to time in a written notice to other entities: (a) if to *{insert Declarant name and mailing address}*, to the attention of *{insert Declarant contact person}*; if to DEP, 17 State House Station, Augusta, Maine 04333-0017, to the attention of Director, Bureau of Remediation & Waste Management (or successor in position).
12. Recording. Declarant shall cause this Declaration to be duly recorded in the *{insert county name}* County Registry of Deeds within ten (10) days of the execution of this Declaration by the last signatory, and shall, within thirty (30) days of the recording of the Declaration, notify the DEP of the book and page at which it is recorded, and submit to DEP a copy of the signed Declaration date-stamped by the Register of Deeds.
13. Administrative Record. The administrative record relating to the Protected Parcel is located at the main office of DEP, whose mailing address is 17 State House Station, Augusta, ME 04333-0017, with a street address of Ray Building, 28 Tyson Drive, Augusta, Maine.
14. Governing Law. This Environmental Covenant shall be governed and interpreted in accordance with the laws of the State of Maine.
15. Liberal Construction. It is intended that this Environmental Covenant be construed liberally to protect the health and welfare of the public and the quality of the environment from the risk of adverse effects of exposure to hazardous substances.
16. Invalidity. If any part of this Environmental Covenant shall be decreed to be invalid by any court of competent jurisdiction, all of the other provisions hereof shall not be affected thereby and shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be signed by its duly authorized officer as of the day and year first above written.

{insert corporation/Declarant name}

By: _____

Name: _____

Title: _____

STATE OF MAINE

{insert county name, CAPITALIZED}, ss.

The above-named *{insert name}* personally appeared before me this ____ day of *{insert month and year}*, in his/her capacity as *{insert title}* and acknowledged the foregoing to be his/her free act and deed in his said capacity and the free act and deed of *{insert corporation name/Declarant}*.

Notary Public/Attorney at Law

Printed Name

ACKNOWLEDGED AND AGREED TO BY:

MAINE DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: _____

Name: _____

Title: _____

STATE OF MAINE

KENNEBEC COUNTY, ss.

The above-named *{insert name}* personally appeared before me this ____ day of *{insert month and year}* in his capacity as *{insert position title}* of DEP, and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of DEP.

Notary Public/Attorney at Law

Printed Name